

**UNITED STATES GOVERNMENT  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 29**

SOUTH NASSAU COMMUNITIES HOSPITAL

Employer

and

Case No. 29-RD-961

HERBETH ROMERO, AN INDIVIDUAL

Petitioner

and

INTERNATIONAL UNION OF OPERATING  
ENGINEERS, LOCAL 30, AFL-CIO

Union

**DECISION AND DIRECTION OF ELECTION**

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, herein called the Act, as amended, a hearing was held before Haydee Rosario, a Hearing Officer of the National Labor Relations Board, herein called the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, the undersigned finds:

1. The Hearing Officer's rulings made at the hearing are free from prejudicial error and hereby are affirmed.
2. International Union of Operating Engineers, Local 30, AFL-CIO, herein called the Union, did not appear at the hearing. However, South Nassau Communities

Hospital, herein called the Employer, disclosed that the commerce stipulation previously entered into by the Union and the Employer in 1999, in Case No. 29-RC-9363, continues to be an accurate description of its current business operations. In Case No. 29-RC-9363, the Employer and the Union stipulated that the Employer is a New York corporation with its principal office and place of business at 2445 Oceanside Road, Oceanside, New York, herein called the Oceanside facility, and is engaged in operating a hospital providing health-care services. The parties further stipulated that during the prior 12 months, the Employer, in the course and conduct of its business operations, had derived gross revenues in excess of \$250,000, and had purchased and received at the Oceanside facility, goods and materials valued in excess of \$5,000 directly from suppliers located outside the State of New York. The parties also stipulated that the Employer is a health care institution within the meaning of Section 2(14) of the Act, and is an acute care hospital as defined in Section 103.30(f)(2) of the Board's Rules and Regulations.

Based upon the previous stipulation of the parties, and the record as a whole, I find that the Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.

3. The labor organization involved herein claims to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The Petitioner, Herbeth Romero, is seeking a decertification election in the existing bargaining unit, which the Union was certified to represent in Case No. 29-RC-9363:

All full-time and regular part-time skilled maintenance employees, including watch engineers, mechanics, maintenance mechanics, electricians, carpenters, plumbers, HVAC mechanics, assistant shop foremen, painters, gardeners, drivers and materials coordinators, employed by the Employer at its Oceanside, New York facilities,<sup>1</sup> and excluding all other employees, clerical employees, professional employees, guards and supervisors as defined in Section 2(11) of the Act.

It is well established that, with very few exceptions, the bargaining unit in which a decertification election is conducted must be coextensive with the recognized or certified unit. *Arrow Uniform Rental*, 300 NLRB 246, 247 (1990); *Mo's West*, 283 NLRB 130 (1987). Accordingly, I find the certified bargaining unit, set forth above, to be appropriate for the purposes of collective bargaining.

### **DIRECTION OF ELECTION**

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the notice of election to be issued subsequently subject to the Board's Rules and Regulations. Eligible to vote are employees in the unit who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation or temporarily laid off. Also eligible are employees engaged in an economic strike that commenced less than 12 months before

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<sup>1</sup> The unit description in Case No. 29-RC-9363 included employees in more than one building at the Employer's Oceanside, New York, location.

the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States who are employed in the unit may vote if they appear in person or at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible to vote shall vote whether they desire to be represented for collective bargaining purposes by International Union of Operating Engineers, Local 30, AFL-CIO.

### **LIST OF VOTERS**

In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of the statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *N.L.R.B. v. Wyman-Gordon Company*, 394 U.S. 759 (1969). Accordingly, it is hereby directed that within 7 days of the date of this Decision, four (4) copies of an election eligibility list, containing the full names and addresses of all the eligible voters, shall be filed by the Employer with the undersigned who shall make the list available to all parties to the election. *North Macon Health Care Facility*, 315 NLRB 359 (1994). In order to be timely filed, such list must be received in the Regional Office, One MetroTech Center North-10th Floor (Corner of Jay Street and Myrtle Avenue), Brooklyn, New York 11201 on or before November 23, 2001. No extension of time to file the list may be granted, nor shall the filing of a request for review operate to stay the filing of such list except in extraordinary circumstances. Failure

to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.

### **NOTICES OF ELECTION**

Please be advised that the Board has adopted a rule requiring that election notices be posted by the Employer at least three working days prior to an election. If the Employer has not received the notice of election at least five working days prior to the election date, please contact the Board Agent assigned to the case or the election clerk.

A party shall be estopped from objecting to the nonposting of notices if it is responsible for the non-posting. An Employer shall be deemed to have received copies of the election notices unless it notifies the Regional office at least five working days prior to 12:01 a.m. of the day of the election that it has not received the notices. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure of the Employer to comply with these posting rules shall be grounds for setting aside the election whenever proper objections are filed.

### **RIGHT TO REQUEST REVIEW**

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570. This request must be received by November 30, 2001.

Dated at Brooklyn, New York, November 16, 2001.

/s/ Alvin Blyer  
Alvin Blyer  
Regional Director, Region 29  
National Labor Relations Board  
One MetroTech Center North, 10th Floor  
Brooklyn, New York 11201

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